

RESOLUTION NO. 80-140

RESOLUTION AUTHORIZING THE MAYOR AND CITY  
CLERK TO EXECUTE A STREET EASEMENT AGREE-  
MENT FROM THE SOUTHERN PACIFIC TRANSPORTA-  
TION COMPANY FOR PINE STREET BETWEEN MAIN  
AND SACRAMENTO STREETS

RESOLVED that the City Council of the City of Lodi does hereby authorize the Mayor and City Clerk to execute a Street Easement Agreement from the Southern Pacific Transportation Company, which is for the purpose of installing the forth-coming traffic signal system at the intersection of Pine Street and Sacramento Street. A copy of the subject easement is attached hereto, depicted as Exhibit "A" and thereby made a part hereof.

Dated: October 15, 1980

I hereby certify that Resolution No. 80-140 was passed and adopted by the City Council of the City of Lodi in a regular meeting held October 15, 1980 by the following vote:

Ayes: Councilmen - McCarty, Murphy, Pinkerton,  
Hughes and Katnich

Noes: Councilmen - None

Absent: Councilmen - None

  
ALICE M. REIMCHE  
City Clerk

EXHIBIT "A"

APPROVED AS TO FORM BY GENERAL COUNSEL  
MARCH 15, 1973

RELMIS: D-103.3-X(N)

C.S. 7362

STREET OR HIGHWAY EASEMENT

This Indenture, made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between  
SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation, herein called "Railroad", and  
CITY OF LODI, a municipal corporation of the State of California, address:  
221 West Pine Street, Lodi, California 95240, herein called "Grantee":

Witnesseth:

1. That Railroad hereby grants to Grantee the right to construct, reconstruct, maintain and use a street or highway, hereinafter termed "highway", upon and across the real property described on the attached Exhibit "A".

2. The rights herein granted are expressly limited vertically and shall not extend beyond a plane parallel with and twenty (20) feet above the roadway surface of the highway as originally constructed, except that lighting fixtures and similar highway appurtenances may extend above said plane, provided that any such facilities will be removed or rearranged within thirty (30) days after notification from Railroad that such facilities interfere with Railroad's intended use of the space above said plane.

3. This grant is subject and subordinate to the prior right of Railroad, its successors and assigns, to use all the property described in the performance of its duty as a common carrier, and there is reserved unto Railroad, its successors and assigns, the right to construct, reconstruct, maintain, use and remove existing and future transportation, communication, power and pipeline facilities in, upon, over, under, across or along said property. In the event Railroad trackage facilities are removed from said property, Railroad shall not be obligated to make any change in the grade of said highway, nor shall such removal affect Railroad's title to the underlying property.

This grant is subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens and claims of title which may affect said property, and the word "grant" shall not be construed as a covenant against the existence thereof.

4. The rights herein granted shall lapse and become void if the construction or reconstruction of said highway is not commenced within two (2) years from the date first herein written.

5. This grant shall not be construed as conveying or otherwise vesting in Grantee the right to install or to authorize the installation of any ditches, pipes, drains, sewer or underground structures, or the facilities of any telegraph, telephone or electric power lines in, upon, over, under, across or along said property, except as necessary for maintenance of said highway.

6. Grantee shall obtain any necessary governmental authority to construct, reconstruct, maintain and use said highway. Any contractor performing work on the property herein described shall execute Railroad's standard form of contractor's agreement prior to commencing any work on Railroad's premises.

7. Except as herein otherwise provided, Grantee shall bear the entire expense of constructing, reconstructing and maintaining said highway. The crossing of said highway over any tracks of Railroad shall be constructed and maintained at the grade of said tracks now or hereafter existing. After the construction or reconstruction of said highway has been completed, Railroad shall maintain the surface of that portion of said highway between lines two (2) feet outside the rails of each track located thereon. Should Railroad abandon tracks leading to said highway, Railroad may abandon its rails, ties and appurtenant materials and leave same in place. In such event, Railroad shall not be liable for maintenance of the portion of said highway specified above.

8. As part consideration hereof, Grantee agrees to pay Railroad an amount equal to all assessments levied by any lawful body against the property of Railroad to defray any part of the expense incurred in connection with the construction or reconstruction of said highway commenced within two (2) years from the date first herein written.

9. Should Grantee at any time abandon the use of said property or any part thereof, or fail to use the same for said purpose for a continuous period of one (1) year, the rights granted shall cease to the extent of the use so abandoned or discontinued, and Railroad shall at once have the right, in addition to but not in qualification of the rights hereinabove reserved, to resume exclusive possession of said property or the part thereof the use of which is so discontinued or abandoned. Upon termination of the rights hereby granted, Grantee agrees to remove said highway, including the paving, from said property of Railroad, to restore said property as nearly as practicable to the same state and condition in which it existed prior to construction of said highway, and to bear the expense thereof. Should Grantee in such event fail, neglect or refuse to so remove said highway and restore said property, such removal and restoration may be performed by Railroad at the expense of Grantee, which expense Grantee agrees to pay to Railroad upon demand.

10. This indenture shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

11. Warning devices shall be upgraded by Railroad under separate agreement with State of California, Department of Transportation.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate as of the day and year first herein written.

SOUTHERN PACIFIC TRANSPORTATION  
COMPANY,

CITY OF LODI,

By \_\_\_\_\_  
(Title)

By Walter J. Katrich  
Mayor

Attest: \_\_\_\_\_  
Assistant Secretary

By Wm. M. Bunch  
Clerk

FRAY  
6/6/80

EXHIBIT "A"

(Pine Street)

A strip of land 80 feet wide situated in the City of Lodi, County of San Joaquin, State of California, lying southerly of and contiguous to the following described line:

Beginning at the point of intersection of the easterly line of land (430 feet wide) of Southern Pacific Transportation Company, with the westerly prolongation of the northerly line of Pine Street; thence westerly along said prolongation, 430 feet to a point in the westerly line of said Company's land.

The side lines of the above described 80 foot wide strip terminate in said easterly and westerly lines.

Said strip of land contains an area of 0.79 of an acre, more or less.